IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4502 of 2007()

CRA.181/2005 of ADDL. SESSIONS COURT (ADHOC-I), THALASSERY
CC.295/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY

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REVN. PETITIONER: APPELLANTS/ACCUSED.

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1. K.K.BABURAJ, S/O. CHANDU,
   KANAKAKUNNUMMAL HOUSE, OLAVILAM, THALASSERY TALUK, KANNUR (ELECTRICITY WORKER).

2. BABU A., S/O. POKKAN,
   ARAYAKOOL, OLAVILAM, THALASSERY.

3. E.CHITHRAN, EROTH HOUSE,
   OLAVILAM, THALASSERY.

4. VINODAN C., S/O. GOPALAN, CHENGARA,
   OLAVILAM, THALASSERY.

5. SASI, S/O. CHATHU,
   KANAKAKUNNUMMAL HOUSE, OLAVILAM, THALASSERY (POSTMAN).

6. SHANI, S/O. ANANDAN, NADUVIL,
   CHENGARA, OLAVILAM, THALASSERY.

7. LIJEESH, S/O. NARAYANAN,
   KOTTAMMAL HOUSE, OLAVILAM, THALASSERY.

BY ADV. SRI.K.S.MADHUSOODANAN
SRI.K.VISWAN
SRI.T.V.JAYAKUMAR NAMBOODIRI
SRI.THUSHAR NIRMAL SARATHY
SRI.M.M.VINOD KUMAR
SMT.K.M.RAMYA

RESPONDENTS: COMPLAINANT & FORMAL PARTY.
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1. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   CHOKLI POLICE STATION, THALASSERY.

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4502 of 2007

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Dated this the 17th day of December, 2007.

ORDER

In this revision filed under Section 397 r/w Section 401 Cr.P.C, the revision petitioners, who are accused Nos.1 to 7 in C.C. No. 295/2002 on the file of the Judicial First Class Magistrate, Thalasserry for offences punishable under Sections 143, 147, 148, 341, 323 and 324 r/w Section 149 IPC, challenge the conviction entered and the sentence imposed by the lower appellate court for offences punishable under Sections 143, 147, 341 and 324 IPC.

2. The case of the prosecution can be summarised as follows:-

On 03.03.2002 at about 6.15 p.m. the 7 accused persons formed themselves into an unlawful assembly armed with deadly weapons and after wrongfully restraining PW1 they beat him with an iron rod and also by their hands causing injuries on various parts of the body of PW1.

3. On the side of the prosecution altogether 8 witnesses were examined as PWs 1 to 8 and 5 documents were got marked as Exts.P1 to P5 and an iron rod was marked as MO1.

4. After the close of the prosecution evidence, the accused were questioned under Section 313(1)(b) Cr.P.C with regard to the incriminating circumstances appearing against them in the evidence for the prosecution. They denied those circumstances and maintained their innocence. They did not adduce any defence evidence when called upon to do so.

5. The learned Magistrate after trial, as per judgment dated 16.02.2005 found the revision petitioners guilty of the offences charged against them and sentenced them to various periods of simple imprisonment.

6. On an appeal preferred by the revision petitioners before the Sessions Court, Thalassery as Crl.Appal No. 181/2005, the learned Additional Sessions Judge (Adhoc-I), Thalassery as per judgment dated 04.10.2007 confirmed the conviction in respect of offences punishable under Sections 143, 147, 341, 324 r/w Section 149 IPC and imposed only a sentence of fine of Rs.1000/-

for the conviction under Section 324 r/w Section 149 IPC, a fine of Rs.500/- under Section 341 r/w Section 149 IPC, Rs.1000/- under Section 143 IPC and Rs.1000/- under Section 147 IPC and also imposed an appropriate default sentence for non-payment of the fine. Out of the fine amount as and when realised a sum of Rs.20,000/- was directed to be paid to PW1 as compensation. It is the said judgment which is assailed in this revision.

7. Even though the learned counsel appearing for the revision petitioners assailed on various grounds the conviction recorded by the courts below against the revision petitioner, the conviction has been recorded by the courts below after a careful evaluation of the oral and documentary evidence in the case and this Court sitting in revision will be loath to interfere with the said conviction. There are bound to be contradictions, exaggerations embellishments and omissions even in the case of the most truthful witnesses. But so long as those features in their evidence do not touch upon the core of the evidence, courts which are manned by experienced Judges may not give much credence to this. It was after a careful re-appreciation of oral

and documentary evidence that the lower appellate court recorded the conviction against the revision petitioner. In the absence of any infirmity in the appreciation of the evidence by the courts below, this court sitting in revision will not interfere with the conviction recorded against the revision petitioner. The conviction is accordingly confirmed.

8. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed on the revision petitioners. The lower appellate court has imposed only a sentence of fine for the conviction recorded. If at all the lower appellate court has erred, that was on the side of leniency in not imposing a sentence of imprisonment as was done by the trial court. Hence, I do not find any justification to issue notice. This revision is accordingly dismissed in limine confirming the conviction entered and the sentence passed against them.

V. RAMKUMAR, JUDGE.

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